

berland, Md., consigned November 29, 1921, alleging that the article had been shipped by the National Fruit Product Co., Martinsburg, W. Va., and transported from the State of West Virginia into the State of Maryland, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended.

Adulteration of the article was alleged in the libel for the reason that distilled vinegar had been mixed and packed with the said article so as to reduce and lower and injuriously affect its quality and strength and had been substituted wholly or in part for the article.

Misbranding was alleged in substance for the reason that the statement appearing on the label of the barrel containing the article, to wit, "National Fruit Product Co. Pure Apple Vinegar Made from Evaporated Apple Products," was false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was an imitation of and was offered for sale under the distinctive name of another article, and for the further reason that it was (food) in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On May 5, 1922, the National Fruit Product Co., claimant, having admitted the allegations of the libel, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be released to the said claimant, upon payment of the costs of the proceedings and the execution of a bond in the sum of \$300, in conformity with section 10 of the act.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10708. Adulteration of canned corn. U. S. v. 1000 Cases of Canned Corn. Consent decree of condemnation and forfeiture. Product released on bond for salvaging. (F. & D. No. 16120. I. S. No. 3924-t. S. No. C-3538.)**

On April 21, 1922, the United States attorney for the Western District of Oklahoma, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel, and on April 25, 1922, an amended libel, for the seizure and condemnation of 1,000 cases of canned corn, remaining unsold in the original unbroken packages at Oklahoma City, Okla., alleging that the article had been shipped on or about March 15, 1922, by the Dexter-Farmer Canning Co., Van Horn, Iowa, and transported from the State of Iowa into the State of Oklahoma, and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Ever Ready Corn \* \* \* Packed by Dexter-Farmer Canning Co. Dexter, Ia., Van Horne, Ia."

Adulteration of the article was alleged in substance in the libel for the reason that it consisted wholly or in part of a filthy and decomposed vegetable substance.

On May 24, 1922, the Dexter-Farmer Canning Co., claimant, having admitted the allegations of the libel and consented to a decree, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product might be released to said claimant for salvaging under the supervision of this department, and that such portion of said product as might be found to be adulterated be destroyed, upon payment of all the costs of the proceeding and the execution of bond in the sum of \$2,000, in conformity with section 10 of the act.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10709. Adulteration and misbranding of butter. U. S. v. 80 Cases of Morris Supreme Fancy Creamery Butter. Consent decree of condemnation and forfeiture. Product released on bond for reworking, repacking, and relabeling. (F. & D. No. 16383. I. S. No. 8199-t. S. No. E-3900.)**

On June 7, 1922, the United States attorney for the Southern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 80 cases of an article labeled, "Morris Supreme Fancy Creamery Butter, 1 Pound Net," remaining unsold in the original unbroken packages at Savannah, Ga., alleging that the article had been shipped on May 31, 1922, by Morris & Co., Nashville, Tenn., and transported from the State of Tennessee into the State of Georgia, and charging adulteration and misbranding in violation of the Food and Drugs Act, as amended.

Adulteration of the article was alleged in the libel for the reason that excessive water had been mixed and packed with and substituted in part for the article.

Misbranding was alleged for the reason that the statement on the labels on the cartons containing the article regarding it, "Butter, 1 Pound Net," was

false and misleading, since the article was not pure butter and the packages did not contain 1 pound net, but considerably less than that amount, and for the further reason that said article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package.

On or about June 19, 1922, Morris & Co., Inc., having a place of business at Savannah, Ga., having appeared, filed its claim, and admitted the allegations contained in the libel, judgment of condemnation was entered, and it was ordered by the court that the product might be released to said claimant for reworking, repacking, and relabeling, under the supervision of this department, upon the execution of bond in the sum of \$310.50, in conformity with section 10 of the act.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10710 (supplement to N. J. 6151). Adulteration and misbranding of compound essence grape. U. S. v. Joseph L. Schider (Jos. L. Schider & Co.). Plea of guilty. Fine, \$50. (F. & D. No. 7805. I. S. No. 12349-k.)**

On April 15, 1918, the Supreme Court of the United States reversed the judgment of the trial court, which sustained defendant's demurrer to the indictment in a case involving the interstate shipment of an article labeled in part, "Compound Ess Grape, Jos. L. Schider & Co., 93-95 Maiden Lane, New York," which was charged to have been adulterated and misbranded, and remanded the case for further proceedings, in accordance with the opinion of the Supreme Court.

On November 14, 1919, the matter having come on for final disposition in the trial court, the defendant entered a plea of guilty to the indictment, and the court imposed a fine of \$50.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10711. Misbranding of McMullin's tonic. U. S. v. 2 Bottles and 2 Dozen Bottles of McMullin's Tonic. Default decrees of condemnation, forfeiture, and destruction. (F. & D. Nos. 14806, 14807. I. S. No. 3961-t. S. Nos. C-2975, C-2977.)**

On April 8 and 29, 1921, the United States attorney for the District of Kansas, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district libels for the seizure and condemnation of 2 bottles and 2 dozen bottles, more or less, of McMullin's tonic, at Leavenworth and Wichita, Kans., alleging that the article had been shipped on or about September 18 and October 16, 1920, by Tilden McMullin, Sedalia, Mo., and transported from the State of Missouri into the State of Kansas, and charging misbranding in violation of the Food and Drugs Act, as amended.

Analysis of a sample of the article by the Bureau of Chemistry of this department showed that it consisted essentially of glycerin, alcohol, and water, with traces of iodid and phenol.

Misbranding of the article was alleged in substance in the libels for the reason that the following statement, regarding the therapeutic or curative effect thereof, appearing on the labels of the bottles, to wit, "\* \* \* Tonic \* \* \* Affords great relief in cases of \* \* \* Consumption, Asthma, Catarrh and Bronchitis," was false and fraudulent in that it was applied to said article knowingly and in a reckless and wanton disregard of its truth and falsity, so as to represent falsely and fraudulently to the purchasers thereof and create in the minds of the purchasers thereof the impression and belief that said article was in whole or in part composed of or contained ingredients or medicinal agents capable, among other things, of producing the therapeutic effect claimed for it on the labels on said bottles, when, in truth and in fact, it was not and did not.

On August 9 and 13, 1921, no claimant having appeared for the property, judgments of condemnation and forfeiture were entered, and it was ordered by the court that the product be destroyed by the United States marshal.

C. W. PUGSLEY, *Acting Secretary of Agriculture.*

**10712. Adulteration and misbranding of egg noodles. U. S. v. 17 Cases of Tri-State Egg Noodles. Default decree of condemnation, forfeiture, and destruction. (F. & D. No. 15036. I. S. No. 10803-t. S. No. W-974.)**

On June 11, 1921, the United States attorney for the District of New Mexico, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 17 cases of Tri-State egg noodles, remaining unsold in the original packages at Deming, N. Mex., alleging that the article had been shipped by the Sharp Elliott Mfg. Co., El Paso, Tex., March 20, 1920, and transported from the State of Texas into the State of New Mexico, and charging adulteration and mis-